

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	CASE NO. 1:05CR536
	)	
Plaintiff,	)	JUDGE PATRICIA A. GAUGHAN
	)	
v.	)	
	)	GOVERNMENT'S MOTION FOR
GENEVA FRANCE,	)	<u>LEAVE OF COURT TO DISMISS</u>
	)	
Defendant.	)	

Now comes the United States of America, by and through its counsel, Gregory A. White, United States Attorney, and Blas E. Serrano, Assistant United States Attorney, and moves this Honorable Court pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure for leave to dismiss the charges against defendant Geneva France.

Geneva France was indicted in a two-count indictment and charged with distribution of 50 grams or more of crack cocaine and distribution within 1,000 feet of school grounds. On February 17, 2006, France proceeded to trial and was found guilty as charged in both counts of the indictment. She was sentenced

to the mandatory minimum of 10 years of imprisonment. France appealed her conviction. On July 13, 2007, a joint motion to remand this case was filed on the basis of newly discovered evidence. On July 27, 2007, the Sixth Circuit Court of Appeals entered an order remanding the case to this Court.

As the Court was made aware on a previous filing, Jerrell Bray, the cooperating source who testified at trial, is an essential witness for the government in the case at bar. Bray recanted his previous testimony and contradicted his version of the facts after his arrest in May of 2007. Consequently, the government is of the position that France would be entitled to a new trial. However, after a review of the case pending against defendant France, including the strength of the government's case and the availability of the witnesses, it is felt that at this time the charges cannot be proven beyond a reasonable doubt.

For the aforementioned reasons, the government moves for  
leave of court for the filing of the dismissal in this case.

Respectfully submitted,

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United States Attorney

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CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of September 2007, a copy of the foregoing Government's Motion for Leave of Court to Dismiss was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail. Parties may access this filing through the Court's system.

s/Blas E. Serrano  
Blas E. Serrano  
Assistant U.S. Attorney